



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

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AUG - 2 1993

OFFICE OF THE
REGIONAL ADMINISTRATOR

Honorable Dennis DeConcini
U.S. Senator
323 West Roosevelt, Suite C-100
Phoenix, Arizona 85003

Dear Senator DeConcini:

Thank you for your inquiry of July 1, 1993 on behalf of your constituent, Mr. Clyde L. McClelland, regarding environmental regulations on Native American reservations.

Let me assure you that Federal environmental laws and regulations do apply on Indian lands. The U.S. Environmental Protection Agency (EPA) continues its commitment to maintaining environmental protection both on and off Indian lands. In doing so, EPA is also committed to the overarching Federal Indian policy in support of Tribal self-government and government-to-government relationship between Federal and Tribal governments.

During the past two years the Tri-Cities Landfill, located on the Salt River Pima-Maricopa Indian Reservation, has been a concern of the Region. We have been working with the State, the County, the Cities, other Federal agencies and the Salt River Pima-Maricopa Indian Community to prevent future flooding impacts to the landfill.

Specifically, the Tri-City Landfill is regulated under the Resource Conservation and Recovery Act (RCRA) as a solid waste management facility and must comply with Federal standards codified in the Code of Federal Regulations Title 40, Part 257 (40 CFR Part 257). EPA has not formally approved a tribal program for landfill operations. Congress did not give authority to EPA for permitting or enforcement of the solid waste regulations under RCRA on state or tribal lands.

At this time, EPA does not have the authority to enforce the solid waste regulations. However, the Salt River Pima-Maricopa Indian Community could develop their own solid waste management program and regulate landfill activities on their reservation. A tribal program would have to be as protective as the Federal regulations. The solid waste regulations may also be enforced through the citizen suit provision of Section 7002 of RCRA.

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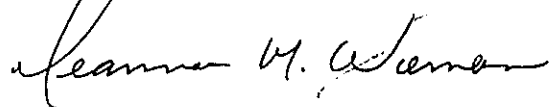
On October 9, 1991 EPA promulgated new Municipal Solid Waste Landfill criteria, 40 CFR Part 258, which will become effective October 9, 1993, and may give EPA additional enforcement authorities. The new regulations address location, design, operation, ground water monitoring, corrective action, closure, post-closure care, and financial assurance requirements for municipal solid waste landfills. Owners and operators of these facilities are responsible for achieving compliance with the new Federal criteria by the effective date of these requirements.

In Region 9 we have been actively assisting both State and Tribal regulators and landfill owners and operators to gain a better understanding of these new requirements. The Region has sponsored and participated in several solid waste workshops to discuss the solid waste landfill regulations and offer technical guidance to improve the overall operation of all landfills.

During the month of January 1993, large volume releases from Roosevelt Dam caused flows in the Salt River, a water of the U.S., to exceed 100 year flood levels. The high flow rates of the Salt River impacted the Tri-Cities Landfill which resulted in impacts to waters of the U.S. The Clean Water Act (CWA), Section 404, regulates dredge and fill activities in waters of the U.S, and the Army Corps of Engineers (COE) is the permitting agency for Section 404. In response to concerns regarding unpermitted discharges to waters of the U.S., the COE has assumed lead agency responsibilities, and is working with the tribe to protect the Tri-Cities Landfill from future flooding.

I trust this information will be helpful in responding to your constituent's concerns. If I can be of further assistance, please call me or my Congressional Liaison Officer, Catherine Roberts, at (415) 744-1560.

Sincerely,



John C. Wise,
Acting Regional Administrator

cc: Major Robert N. Van Der Like,
U.S. Army Corps of Engineers

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